

Marilyn Moon, Ph.D.
CHAIR



Rex W. Cowdry, M.D.
EXECUTIVE DIRECTOR

MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215
TELEPHONE: 410-764-3460 FAX: 410-358-1236

MARYLAND HEALTH CARE COMMISSION

Thursday, March 19, 2009
Minutes

Chair Moon called the public meeting to order at 1:05 p.m.

Commissioners present: Conway, Falcone, Krumm, McLean, Moore, Ontaneda-Bernales, Pollak, Todd, Wilensky, and Worthington. Commissioner Olsen participated via teleconference.

ITEM 1.

Approval of the Minutes

Commissioner Todd made a motion to approve the minutes of the February 19, 2009 meeting of the Commission, which was seconded by Commissioner Moore, and unanimously approved.

ITEM 2.

Presentation: State Health Care Expenditures for 2007

Ben Steffen, Director of the Center for Information Systems and Analysis, presented the report titled *State Health Expenditures: Experience from 2007*. Mr. Steffen said the report is prepared annually and contains information on health care expenditures for Maryland residents by public and private sources during calendar year 2007. He said the report, which is mandated by the Maryland General Assembly, continues the Commission's effort to measure health care spending in Maryland. Mr. Steffen discussed the major findings, which included:

- Total spending on services provided to residents of the state climbed to \$35.8 billion in 2007. Per capita health care spending increased by 6% from 2006 to 2007, somewhat slower than the longer term average growth rate of 7% from 2003 to 2007. Maryland's per capita health care spending and rate of growth from 2006 to 2007 are similar to the national averages.
- Spending per capita on hospital inpatient and outpatient services increased by 8%, slightly faster than the 7% increase reported for the United States. Hospital spending accounts for about 32% of the total \$35.8 billion in spending.
- Per capita spending for health professional services, the second largest category of spending, grew by 3% in 2007. Spending in this service category grew more slowly in Maryland than in the United States.
- Spending on administration and the net cost of insurance grew by 5% per capita overall, somewhat lower than was reported for the United States.

- Total expenditures by the federal government on Medicare grew the most rapidly among all payers due to increased volume and intensity in the use of service and a 2% jump in enrollees from 2006 to 2007. Spending for the privately insured increased more slowly at 5% and private enrollment was stable.
- Out of pocket spending by patients grew by 6%, slightly faster than the growth reported nationally.

ITEM 3.

Update of Activities

Rex Cowdry, M.D., Executive Director, ~~noted that the infrastructure plan began two years ago, through several processes of bidding to update the equipment in the conference room, resulted in an improved system that will permit members of the audience to both see and hear Commission discussions and presentations.~~ He announced that the Commission expects to have new Commissioners by the April meeting and thanked Vice Chair Wilensky and Commissioners Pollak and Lucht for their years of service to the State of Maryland. Dr. Cowdry also discussed the transfer of \$17 million from the Maryland Trauma Physician Services Fund to the State's general fund and a similar transfer of \$2 million from the Commission's special fund. He noted that planning to modernize the audiovisual equipment in the conference room began two years ago and has resulted in an improved system that will permit members of the audience to both see and hear Commission discussions and presentations.

David Sharp, Director, Center for Health Information Technology, welcomed new staff member Christine Karayinopulos to the Commission. He said Christine will serve as a Special Assistant within the Center for Health Information Technology.

Pamela Barclay, Director, Center for Hospital Services, announced that the Commission is seeking informal public comments regarding draft changes to COMAR 10.24.17, which will make door-to-balloon time for primary percutaneous coronary intervention (pPCI) consistent with the guidelines of the ACC/AHA. Commission staff will consider the informal comments and recommend proposed regulations at the April Commission meeting.

Chair Moon announced that Debbie Rajca would retire in April following thirty years of State service. Debbie has been working within the Maryland Health Care Commission since May 31, 2000. Chair Moon thanked Ms. Rajca for her service to the State of Maryland.

ITEM 4.

ACTION: Renewal of Primary Percutaneous Coronary Intervention (pPCI) Services Waiver

- **Upper Chesapeake Medical Center (Docket No. 08-12-0038WR)**

Dolores Sands, Chief, Specialized Services Policy and Planning, presented the recommendation on Upper Chesapeake Medical Center's request for a two-year waiver that would allow the hospital to continue to provide primary percutaneous coronary intervention services without on-site cardiac surgery services. Ms. Sands noted that the Commission issued an initial one-year waiver to the hospital with the following condition: Upper Chesapeake Medical Center will recruit additional cardiac catheterization laboratory services to acute MI patients 24 hours per day, 7 days per week. After Upper Chesapeake Medical Center met the condition, the Commission approved initiation of the facility's primary PCI program effective May 17, 2008. UCMC applied to the Commission on December 17, 2008 for renewal of its pPCI waiver and is seeking a two-year waiver. She stated that Commission staff had reviewed UCMC's application

and, based on that analysis and the record in this review, recommended that UCMC be granted a two-year waiver. Commissioner Todd made a motion to issue a two-year waiver that permits Upper Chesapeake Medical Center to provide primary percutaneous coronary intervention services without on-site surgery services, which was seconded by Commissioner Falcone, and unanimously approved. Commissioner Ontaneda-Bernales recused from consideration of this matter.

ACTION: Upper Chesapeake Medical Center is hereby granted a two-year primary PCI waiver.

ITEM 5.

ACTION: Executive Director Recommendation on Non-Primary Research Waiver Applications – Western Maryland Regional Service Area

- **Frederick Memorial Hospital (Docket No. 08-10-0034 NPRW)**
- **Washington County Hospital (Docket No. 08-21-0035 NPRW)**

Ms. Sands provided background information on percutaneous coronary intervention (PCI) services without on-site cardiac surgery services. She noted that the research waiver is time-limited and not intended to consider locations for non-primary angioplasty programs without cardiac surgery on-site beyond the study period. Both hospital research sites would improve the distribution of cardiovascular services, as measured by distance to existing open heart surgery (OHS) programs. She noted that participation in a clinical trial may be associated with improvements in the use of guideline-recommended care in outpatient settings before and after an acute coronary event. Both hospitals are likely to contribute to the success of the study that will ultimately inform State policy. Based on staff's analysis, the Executive Director recommended that the Commission award research waivers to participate in the C-PORT E research study to Frederick Memorial Hospital and to Washington County Hospital. Commissioner Krumm made a motion that the Commission approve the Executive Director's recommendation to grant npPCI research waivers to Frederick Memorial Hospital and to Washington County Hospital, which was seconded by Commissioner Falcone. Following discussion, the motion was unanimously approved by Commissioners Worthington, Moore, Olsen, Todd, Conway, Krumm, Falcone, and McLean. Commissioners Ontaneda-Bernales and Pollak recused themselves from consideration of this matter.

ACTION: Executive Director Recommendation on Non-Primary Research Waiver Applications – Western Maryland Regional Service Area – Frederick Memorial Hospital (Docket No. 08-10-0034 NPRW) and Washington County Hospital (Docket No. 08-21-0035 NPRW), is hereby APPROVED.

ITEM 6.

ACTION: COMAR 10.24.05 – Research Waiver Applications: Atlantic C-PORT Study of Non-Primary PCI – Action on Emergency and Proposed Permanent Regulations

Ms. Barclay, Director of the Center for Hospital Services, sought approval of Emergency and Proposed Permanent Regulations that govern the waiver process under which the Commission permits selected hospitals to participate in the C-PORT E research study of non-primary angioplasty in hospitals without on-site cardiac surgical backup. The proposed changes increases the number of research sites that the Commission may grant a waiver to from not more than six to not more than nine. Following discussion, Commissioner Todd made a motion to approve Emergency and Proposed Permanent Regulations, which was seconded by Commissioner Moore, and unanimously approved. Commissioners Krumm, Ontaneda-Bernales, and Pollak recused themselves on this matter.

ACTION: Amendments to COMAR 10.24.05 – Research Waiver Applications: Atlantic C-PORT Study of Non-Primary PCI – are hereby ADOPTED as Emergency and Proposed Permanent Regulations.

ITEM 7.

BRIEFING: Results of the 2008 Long Term Care Family Experience of Care Survey

Carol Christmyer, Chief of the Long-Term Care Quality Initiative, presented the results of the 2008 Long Term Care Family Experience Survey, including the goals and principles of the survey, the areas assessed, and sources of revision in the survey instrument.

ITEM 8.

ACTION: Certificate of Need

- **Manor Care-Bowie (Docket No. 08-16-2249)**

Manor Care-Bowie, applied for a Certificate of Need to establish a new 120-bed nursing home in Prince George's County, with a total estimated project cost of \$14,897,003. Paul Parker, Chief, Certificate of Need, presented the staff recommendation on the application. Staff recommended that the Commission award a Certificate of Need with conditions: that Manor Care complete a Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to the minimum required level of Medicaid participation in Prince George's County; that Manor Care delicense beds relocated from Heartland Health Care Center-Adelphi and Heartland Health Care Center-Hyattsville; and that Manor Care provide documentation of a staff training program with specific elements addressing the care needs of the nonelderly population at the new facility prior to first use. Commissioner Falcone made a motion to approve the staff recommendation, which was seconded by Commissioner Conway. Following discussion, the staff recommendation was unanimously approved. Vice Chair Wilensky and Commissioner Ontaneda-Bernales recused themselves from this matter.

ACTION: Certificate of Need for Manor Care-Bowie (Docket No. 08-16-2249) is hereby APPROVED.

- **Augsburg Lutheran Home of Maryland (Docket No. 08-03-2284)**

Susan Myers, Health Policy Analyst, presented the staff recommendation on the CON application of Augsburg Lutheran Home of Maryland for an addition to its comprehensive care facility and for renovations to its existing facility. The project is estimated to cost \$10,712,690. Augsburg plans to retire \$5.94 million in existing debt through the bond financing which will make up the largest source of funds for the project. Commission staff recommended approval of the project with a condition that Augsburg complete a Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to the minimum required level of Medicaid participation in Baltimore County before first use. Commissioner Krumm made a motion to approve the staff recommendation, which was seconded by Commissioner Falcone, and unanimously approved. Commissioner Ontaneda-Bernales recused herself from this matter.

ACTION: Certificate of Need for Augsburg Lutheran Home of Maryland (Docket No. 08-03-2284) is hereby APPROVED.

- **Holly Hill Nursing and Rehabilitation Center (Docket No. 08-03-2285)**

Ms. Myers presented the staff recommendation on Holly Hill Nursing LLC's application for Certificate of Need for an expansion to and renovation of its facility, adding 20 beds acquired from the Little Sisters of the Poor, at a cost of \$3,657,475. Commission staff recommended approval of the project with a condition that Holly Hill complete a Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to the minimum required level of Medicaid participation in Baltimore County before first use. Commissioner Conway made a motion to approve the staff recommendation, which was seconded by Commissioner Todd, and unanimously approved. Commissioner Ontaneda-Bernales recused on this matter.

ACTION: Certificate of Need for Holly Hill Nursing and Rehabilitation Center (Docket No. 08-03-2285) is hereby APPROVED.

ITEM 9.

LEGISLATIVE UPDATE:

Dr. Cowdry provided an update on the 2009 legislative session. Regarding SB 637 (Health Insurance - Small Group Market Regulation – Modifications),⁵⁷ Commissioner McLean raised questions about the changes in rate bands, the introduction of a pre-existing condition exclusion, and including a modest health factor in the rating for a group new to the small group market, noting~~ed~~ that an unprecedented number of small employers are being priced out of the market and ~~said that they~~ should not be unnecessarily penalized for coming back into the market at a later point. Vice Chair Wilensky added that it would be a mistake to take a definitive step regarding rating in the small group market when everything is in a state of flux. Chair Moon recommended that the Commission write a letter conveying its view that, because of the current economic conditions facing small businesses, a delayed implementation of certain features of the legislation, particularly the rate changes, should be considered. The Commissioners also suggested that options for plans with fewer benefits than the standard plan should be examined as part of the Commission's study of high performance/high value plans over the interim. Commissioner Ontaneda-Bernales made a motion that the Commission submit a letter outlining the issues, which was seconded by Commissioner McLean and unanimously approved.

ITEM 10.

FINAL ACTION: COMAR 10.24.01 - Definition of Participating Entity-Final Action on Proposed Permanent Regulations

Ms. Barclay presented for consideration as final regulations, changes to COMAR 10.24.01 that would make the municipality or jurisdiction from which a facility is relocating eligible to be designated as a participating entity. She noted that the Commission received no comments regarding the proposed amendments and requested final action. Commission Falcone made a motion to promulgate changes to COMAR 10.24.01 as final regulation, which was seconded by Commissioner Conway and unanimously approved.

ACTION: COMAR 10.24.01 - Definition of Participating Entity-Final Action on Proposed Permanent Regulations is hereby ADOPTED.

ITEM 11.

FINAL ACTION: COMAR 31.11.06 – Comprehensive Standard Health Benefit Plan – Dependent Coverage up to age 25 and Coverage for Bariatric Surgery

Janet Ennis, Chief, Small Group Market, presented the final regulations governing the Comprehensive Standard Health Benefit Plan. She noted that the Commission received no comments regarding the proposed regulation and requested final action. Commissioner Todd made a motion to promulgate COMAR 31.11.06 as final regulation, which was seconded by Vice Chair Wilensky and unanimously approved.

ACTION: COMAR 31.11.06 – Comprehensive Standard Health Benefit Plan – Dependent Coverage up to age 25 and Coverage for Bariatric Surgery is hereby ADOPTED.

ITEM 12.

FINAL ACTION: COMAR 10.25.02 – User Fee Assessment of Health Care Practitioners

Bridget Zombro, Director of Administration, presented the User Fee Assessment of Health Care Practitioners regulations for final action. She noted that the Commission received no comments regarding the proposed regulation and requested final action. Commissioner Conway made a motion to promulgate COMAR 10.25.02 as final regulation, which was seconded by Commissioner Todd and unanimously approved.

ACTION: COMAR 10.25.02 – User Fee Assessment of Health Care Practitioners is hereby ADOPTED.

ITEM 13.

FINAL ACTION: COMAR 10.25.03 — User Fee Assessment of Payers, Hospitals, and Nursing Homes

Ms. Zombro presented the User Fee Assessment of Payers, Hospitals, and Nursing Homes regulations for final action, noting that the Commission received a comment from the LifeSpan Network. Ms. Zombro emphasized that the Commission's work has saved the nursing homes \$685,000 since 2006 and requested that the Commission adopt COMAR 10.25.03 — User Fee Assessment of Payers, Hospitals, and Nursing Homes as proposed without modification. Commissioner Conway made a motion to promulgate COMAR 10.25.03 as final regulation, which was seconded by Commissioner Todd and unanimously approved.

ACTION: COMAR 10.25.03 – User Fee Assessment of Health Care Practitioners is hereby ADOPTED.

ITEM 14.

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:03 p.m., upon motion of Commissioner Krumm, which was seconded by Commissioner Pollak and unanimously approved.